

**CITY OF ENCINITAS**

**PLANNING AND BUILDING DEPARTMENT**

**LEGAL NOTICE OF AVAILABILITY  
OF PROPOSED MUNICIPAL CODE AND LOCAL COASTAL PROGRAM  
AMENDMENTS AND PUBLIC HEARINGS BY THE PLANNING COMMISSION**

Amendment of Title 30 (Zoning Ordinance) to prohibit short term vacation rentals in residential zones by amending certain definitions contained in Chapter 30.04, Chapter 30.09 to clarify the locational requirements in the Zoning Use Matrix, standards for Bed and Breakfast accessory uses in Section 30.48.040Z, and Nonconforming provisions in Section 30.76.090.

Public Notice is hereby given of the availability of an amendment to the City of Encinitas Municipal Code and Local Coastal Program (LCP). This Public Notice of Availability opens a six-week public review period (February 17, 2005 through March 31, 2005) prior to any final action being taken by the City Council on this Local Coastal Program Amendment request.

**A PUBLIC HEARING FOR THE PROPOSED AMENDMENTS IS SCHEDULED BEFORE THE PLANNING COMMISSION ON THURSDAY, MARCH 3, 2005. THE HEARING WILL TAKE PLACE IN THE CITY COUNCIL CHAMBERS AT 505 SOUTH VULCAN AVENUE AND WILL START AT 6:00 P.M. OR AS SOON AS POSSIBLE THEREAFTER.**

**CASE NUMBER:** 04-284 ZOA/LCPA

**FILING DATE:** December 15, 2004

**APPLICANT:** City of Encinitas

**LOCATION:** The proposed amendment will be an amendment to Title 30 of the Municipal Code. The amendment will govern the regulation of short-term vacation rentals, prohibiting the use in residential zones within the City of Encinitas.

**DESCRIPTION:** The City of Encinitas proposes to amend the Zoning Ordinance and Local Coastal Program related to short-term vacation rentals:

1. Chapter 30.04, Definitions: Modify Transient Habitation Unit and add a definition to Short Term Vacation Rental.
2. Chapter 30.09, Zoning Use Matrix: Modify to amend the locational requirement and use allowances for Transient Habitation.
3. Section 30.48.040Z, Bed and Breakfast Home: Modify to allow flexibility to some of the standards for historic buildings or structures constructed prior to 1936.

4. Section 30.76.090, Termination of Nonconformity, General: Modify subsection B to terminate a short-term vacation rental unit that remains inactive for 360 consecutive days.

**ENVIRONMENTAL STATUS:** The adoption of the Zoning Code and Local Coastal Program Amendments will be exempt from Environmental Review pursuant to General Rule 15061 (b) (3) since there would be no possibility of a significant effect on the environment because the amendments will not directly result in development.

This project constitutes an amendment to the City of Encinitas Municipal Code and Local Coastal Program (LCP). If the City approves the amendments, the proposed LCP amendment must be submitted to the California Coastal Commission for review and adoption. The LCP amendment will not become effective until after adoption by the California Coastal Commission. This Notice of Availability opens a six-week public review period prior to any final action being taken by the City Council on the LCP amendment request.

Application materials and the environmental records for these items are available at the Planning and Building Department, 505 South Vulcan Avenue, Encinitas, CA 92024. For further information, please contact the Planning and Building Department at (760) 633-2710.

## Short-Term Vacation Rentals

### Zoning Code Amendment / Local Coastal Program Amendment ZCA/LCPA Case #04-284

#### Definitions, Chapter 30.04:

Recommend changes to Transient Habitation Unit definition.

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BED AND BREAKFAST HOME shall mean a single family dwelling which is operated to provide lodging for pay, including overnight sleeping accommodations and breakfast, for one (1) or more guests on a less than weekly basis.

HOTEL shall mean a structure or portion thereof or groups of attached guest rooms or suites occupied on a transient basis for compensation.

MOTEL shall mean the same as "hotel".

SHORT TERM VACATION RENTAL shall mean the rental of any structure or any portion of any structure for occupancy for dwelling, lodging or sleeping purposes 30 consecutive days or less in a residential zoning district, including single-family residences, condominiums, duplexes, townhomes and multiple-family dwellings.

TRANSIENT HABITATION UNIT shall mean living quarters ~~used~~intended exclusively for occupancy by transient persons for a period of 30 consecutive days or less, and subject to See Chapter 3.12 of the Municipal Code, Transient Occupancy Tax for applicable regulations. A transient habitation unit may include a hotel or motel room or suite of rooms, a cabin, ~~or~~ campground space, or short-term vacation rental unit in residential units, but does not include single family or duplex units. (Ord. 97-17).

**Use Matrix, Chapter 30.09  
Short-Term Vacation Rentals Zoning Code/LCP Amendment**

Recommend Transient Habitation use to be consistent with Hotel and Motel uses within Limited Commercial (LC), Visitor Serving Commercial (VSC) and Limited-Visitor Serving (L-VSC) Zones. Also recommend consistency with Camps use within Public / Semi-public (P/SP) and Ecological Resource / Open Space (ER/OS) Zones.

Use	Zoning uses														
	RR RR-1 RR-2	RS-11 R-3 R-5 R-8	R-11 R-15	R-20 R-25	MHP	OP	LC	GC	VSC	LI	BP	P/SP	ER/OS	L-LC	L-VSC
Camps (Ord. 95-04)	X	X	X	X	X	X	X	X	X	X	X	C	C*	X	X
Hotel	X	X	X	X	X	X	X	C	P	X	X	X	X	X	P
Motel	X	X	X	X	X	X	X	C	P	X	X	X	X	X	P
Transient Habitation (Ord. 91-03)	X	X	X	X	X	X	CX	C	PC	X	X	C	C*	X	GP

**P = Permitted by Right**

**C = Conditional Use permit Required (Major)**

Cm = Conditional Use Permit Required (Minor)

**X = Prohibited**

\* Not permitted within coastal zone ecological resource areas.

Accessory Uses, Chapter 30.48  
Section 48.040Z  
Bed and Breakfast Home

Recommend no changes.

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Z. Bed and Breakfast Home. A bed and breakfast home is a permitted accessory use upon issuance of a minor use permit provided the following conditions are complied with:

1. Located in a residential zone or in a designated Historic building, or conducted within a structure which was constructed prior to 1936.

2.\* A maximum of five bedrooms shall be made available for rent. ~~A bed and breakfast home having more than five bedrooms available for rent may be approved if the home is designated a Historic Landmark in accordance with the Historic Landmark Designation.~~

3. With the exception of a designated historic building or a structure constructed prior to 1936, No bed and breakfast home shall be located on a lot closer than 200 feet from any other lot containing a bed and breakfast home. The 200 foot distance shall be measured in a straight line connecting the closest points on the lot lines and without regard for intervening structures.

4. The owner or lessee of the property shall operate the facility and reside in the home.

5.\* One off-street parking space for each room rented and each employee shall be provided in addition to the parking required for single-family occupancy.

6. Service shall be limited to the rental of rooms and the provision of breakfast for overnight guests. No food preparation or cooking by guests shall be conducted within any bedroom made available for rent.

7. Signs shall be limited to one on-premise sign not to exceed two square feet.

\*Note: Standard may be modified if the home is a designated historic building or conducted within a structure, which was constructed prior to 1936.

**Accessory Uses, Chapter 30.48**  
**Section 30.76.090**  
**Termination of Nonconformity, General**

Optional amendment:

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30.76.090 Termination of Nonconformity, General.

A. If a nonconforming use is changed to a use that conforms to or is more consistent with the regulations of this Title, then any entitlement to maintain the nonconforming use is modified in that same degree.

B. Unless otherwise provided in this Chapter, a nonconforming use which remains inactive for 180 consecutive days, shall be deemed to have ceased, and shall not thereafter be renewed. A short-term vacation rental unit that remains inactive for 360 consecutive days, shall be deemed to have ceased, and shall not thereafter be renewed.

C. If a nonconforming use or structural nonconformity is enlarged, extended, expanded or in any other manner changed to increase its inconsistency with the regulations of this Title, then, in addition to any other consequences imposed by this Code, any entitlement to thereafter maintain the nonconformity is terminated.